

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

JAROSLAW PACEK,

Plaintiff,

v.

TRAVELERS COMMERCIALS
INSURANCE COMPANY, et al.,

Defendants.

No. 2:22-cv-0714 MCE DB

ORDER

Plaintiff, proceeding through counsel, commenced this action on April 25, 2022, by filing a complaint and paying the applicable filing fee. (ECF No. 1.) On January 18, 2023, the undersigned issued an order granting defendants' motion to compel and ordering plaintiff to produce responsive documents. (ECF No. 22.)

On February 3, 2023, defendants filed discovery motions to enforce the January 18, 2023 order. (ECF Nos. 25 & 26.) Pursuant to Local Rule 251(b) a discovery motion "shall not be heard unless [] the parties have conferred and attempted to resolve their differences[.]" In this regard, "[c]ounsel for all interested parties shall confer in advance of the filing of the motion or in advance of the hearing of the motion in a good faith effort to resolve the differences that are the subject of the motion." (*Id.*) If, after meeting and conferring, the moving party remains dissatisfied, that party shall draft and file a "Joint Statement re Discovery Disagreement." Local

1 Rule 251(c). The failure to file a Joint Statement may result in the hearing being dropped from
2 calendar. Local Rule 251(a). However, Local Rule 251(e) provides, in relevant part, that a Joint
3 Statement is not required “when there has been a complete and total failure to respond to a
4 discovery request or order[.]”

5 Defendants’ motions assert that Local Rule 251(e) applies and the motions, therefore, do
6 not require a Joint Statement because there had been a complete and total failure to respond to the
7 January 18, 2023 order. (ECF No. 25 at 5; ECF No. 26 at 5.) Defendants’ motions, however,
8 acknowledge that plaintiff “served written responses” on January 20, 2023, which defendants
9 assert “are incomplete and non-responsive,” in violation of the undersigned’s January 18, 2023,
10 order. (ECF No. 25 at 6.)

11 Assuming *arguendo* that is true, that does not constitute a complete failure to respond as
12 required by Local Rule 251(e).¹ Defendants’ motions, therefore, have failed to comply with the
13 provisions of Local Rule 251 and the undersigned’s Standard Information re discovery disputes
14 found on to the court’s web page at [http://www.caed.uscourts.gov/caednew/index.cfm/judges/all-](http://www.caed.uscourts.gov/caednew/index.cfm/judges/all-judges/united-states-magistrate-judge-deborah-barnes-db)
15 [judges/united-states-magistrate-judge-deborah-barnes-db](http://www.caed.uscourts.gov/caednew/index.cfm/judges/all-judges/united-states-magistrate-judge-deborah-barnes-db).

16 Accordingly, IT IS HEREBY ORDERED that:

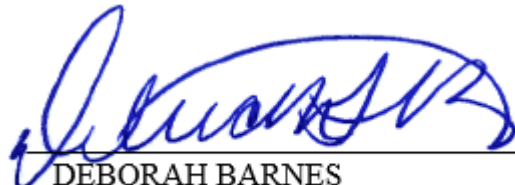
17 1. Defendants’ February 3, 2023, motion for discovery (ECF No. 25) is denied without
18 prejudice to renewal;

19 2. Defendants’ February 3, 2023, motion to enforce (ECF No. 26) is denied without
20 prejudice to renewal; and

21 3. The February 17, 2023 hearing of defendants’ motions is vacated.

22 Dated: February 14, 2023

23
24
25 DLB:6
26 DB/orders/orders.civil/pacek0714.mtc.den.ord


DEBORAH BARNES
UNITED STATES MAGISTRATE JUDGE

27 ¹ On February 10, 2023, plaintiff filed an opposition, accurately, arguing that this dispute must
28 comply with Local Rule 251(b), requiring the parties to meet and confer and file a Joint
Statement. (ECF No. 27 at 5.)